

EXHIBIT A

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

Walter W. Thiemann, on behalf of himself and of all others similarly situated,	:	Case No. C-1-00-793
Plaintiff,	:	Judge Sandra S. Beckwith
vs.	:	Magistrate Judge Hogan
OHSL Financial Corporation, et al.	:	RULE 56 (f) AFFIDAVIT OF MICHAEL G. BRAUTIGAM
Defendants.	:	

STATE OF OHIO	:
	: SS:
COUNTY OF HAMILTON	:

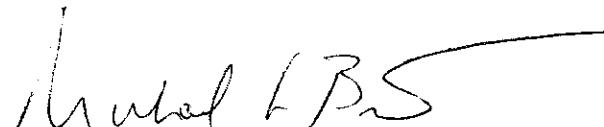
MICHAEL G. BRAUTIGAM, being duly sworn, deposes and states as follows:

1. I am one of the counsel for the plaintiffs in this action.
2. I make this affidavit pursuant to Rule 56 (f) to inform the Court that I believe that plaintiffs are unable to fully and fairly respond to the motions to dismiss filed by the KMK defendants, the Dinsmore defendants, and the OHSL and Provident defendants based on the current incomplete state of the record.
3. I have conferred with Gene Mesh, another of the counsel for the plaintiffs, and I am informed and believe that Mr. Mesh also believes

that plaintiffs are unable to fully and fairly respond to the motions to dismiss due to the current state of the record.

4. Both Gene Mesh and I believe that the motions to dismiss filed by the KMK defendants, the Dinsmore defendants, and the OHSL and Provident defendants, are really motions for summary judgment masquerading as motions to dismiss that would require the Court to make detailed factual findings inappropriate on a 12(b) (6) motion.

FURTHER AFFIANT SAYETH NAUGHT



Michael G. Brautigam

Sworn to before me and subscribed in my presence this 13th day of February 2004.



MAHER W. KADDOURA
Notary Public, State of Ohio
My Commission Expires
July 30, 2008

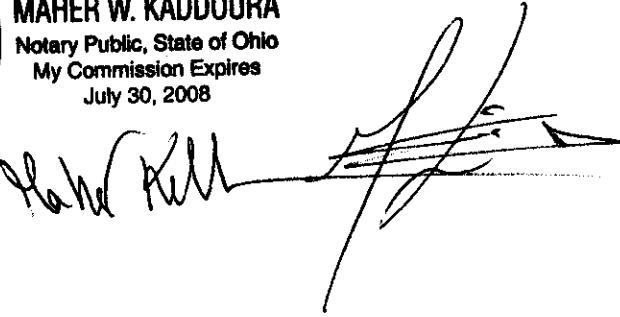


EXHIBIT B

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT CINCINNATI

WALTER W. THIEMANN, on behalf of himself and of all others similarly situated.

Plaintiff,

VS. : CASE NO. C-1-00793

DHSL FINANCIAL CORP.,
OAK HILLS SAVINGS AND LOAN COMPANY, F.A.,
NORBERT G. BRINKER,
KENNETH L. HANAUER,
WILLIAM R. HILLEBRAND,
ALVIN E. HUCKE, THOMAS E. MCKIERNAN, JOSEPH J. TENOEVER, HOWARD N. ZOELLNER, PROVIDENT FINANCIAL GROUP, INC., ROBERT L. HOVERSON, JACK M. COOK, THOMAS D. GROTE, JR., PHILIP R. MYERS, JOSEPH A. PEDOTO, JOSEPH A. STEGER, CHRISTOPHER J. CAREY, CLIFFORD ROE, and DINSMORE & SHOHL, LLP.

Defendants.

Transcript of hearing held before

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Magistrate Judge Hogan, pursuant to the Federal Rules of Civil Procedure, taken before me, Lee Ann Williams, a Registered Professional Reporter and Notary Public in and for the State of Ohio, on Thursday, January 5, 2004, at 1:00 p.m.

APPEARANCES:

On behalf of the Plaintiff:
Michael G. Brautigam, Esq.
Gene Mesh & Associates
2605 Burnet Avenue
Cincinnati, Ohio 45219

On behalf of the Defendants:

James E. Burke, Esq.
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On behalf of the Defendants Dinsmore & Shohl and Clifford Roe:

John W. Hust, Esq.
Schroeder, Maundrell, Barbire & Powers
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Cincinnati, Ohio 45249

On behalf of the Defendants:

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and
Thomas W. Breidenstein, Esq.
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Cincinnati, Ohio 45202

On behalf of the Defendants:

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Graydon, Head & Ritchey
1900 Fifth Third Center
511 Walnut Street
Cincinnati, Ohio 45202

On Behalf of the Defendants:

Mary-Helen Perry, Esq.
Jones Day
51 Louisiana Avenue, N.W.
Washington, D.C. 20001

THE COURT: Everybody's here in chambers and we've agreed to have a brief status conference on whatever Mr. Brautigam wants to discuss. I don't know. Go ahead.

MR. BRAUTIGAM: Your Honor, first

of all, thank you very much for taking time with the deposition this morning and thank you for meeting with us briefly with respect to the status conference.

Your Honor, we asked for a status conference because the schedule that you set, document 221, is no longer workable. It's fundamentally unfair and it's unfair in part because the defendants have chosen to re-litigate things that have already --

THE COURT: Can I stop you a second, Mike? My understanding was that the calendar order was the subject of objections before Judge Beckwith. And if that's the case, that issue is before Judge Beckwith and why would I want to address it now? I mean, that's my -- that's my understanding.

And I'm not sure that there is any legal authority for filing objections to a

OHSLE HEARING

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12:58:34 1 calendar order, but technically speaking -- I
 12:58:36 2 mean, beyond technically speaking, I think it's
 12:58:40 3 up to her how to schedule her case. And I'm
 12:58:46 4 certain she's going to react to that in some
 12:58:48 5 way.

12:58:48 6 Now, maybe if she were to dismiss
 12:58:50 7 it on technical grounds, then it might be a
 12:58:56 8 subject to be discussed here. But my feeling
 12:58:58 9 for the moment is it's Judge Beckwith's call
 12:59:00 10 what she wants to do with the calendar order.
 12:59:04 11 I mean, I don't know how you all feel about it.
 12:59:08 12 I --

12:59:10 13 MR. BURKE: Your Honor --

12:59:10 14 THE COURT: Am I right?

12:59:12 15 MR. BURKE: Yes. There were
 12:59:16 16 objections filed, Your Honor.

12:59:14 17 MR. BRAUTIGAM: Your Honor, the
 12:59:14 18 problem is this, we have not been able to get
 12:59:18 19 before Judge Beckwith for the pendency of the
 12:59:20 20 entire case. I believe we've filed emergency
 12:59:22 21 motions before, and somehow these things have a
 12:59:24 22 way of mooting these things out.

12:59:26 23 As it stands now, we are required
 12:59:28 24 to respond by February 16th, which is a

12:59:30 1 holiday, which is less than the usual time, to
 12:59:34 2 something that the defendants collectively had
 12:59:38 3 months to do.

12:59:38 4 We object to that, we think it's
 12:59:40 5 fundamentally unfair. Except with respect to
 12:59:42 6 Ernst & Young, who truly did file a motion to
 12:59:46 7 dismiss, what the defendants have filed are
 12:59:48 8 motions for summary judgment. They have reams
 12:59:50 9 of attachments, and that's one thing. But even
 12:59:52 10 worse, they attempt to re-argue decisions of
 12:59:54 11 this Court.

12:59:54 12 And we think it's simply
 12:59:56 13 outrageous and we don't feel that we have to
 12:59:58 14 respond to something like that. And we need
 13:00:00 15 some guidance on this right away.

13:00:02 16 MR. BURKE: Your Honor, if I can
 13:00:04 17 respond. Mr. Brautigam is free to bring all of
 13:00:06 18 those issues up in his response and to argue
 13:00:08 19 whatever he wants. I would further add, Your
 13:00:10 20 Honor, that if Mr. Brautigam had called us and
 13:00:14 21 said, there's a lot of motions to be responded
 13:00:16 22 to, I would like a couple of weeks, the answer
 13:00:18 23 would have been we will not oppose a motion to
 13:00:20 24 give you additional time, quite honestly.

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 13:00:22 1 The problem with Mr. Brautigam is
 13:00:22 2 when we asked for a similar courtesy earlier in
 13:00:26 3 the case with respect to class certification
 13:00:28 4 about a month ago, he said no. I guess he
 13:00:30 5 feels he can't ask us for something or we would
 13:00:34 6 respond as he has responded. That's not the
 13:00:38 7 way we practice law in the Ohio Bar, that's the
 13:00:40 8 way he practices law. If he had asked us, we
 13:00:42 9 would have agreed, it's that simple.

13:00:44 10 MR. BRAUTIGAM: Your Honor, that's
 13:00:44 11 disingenuous. Judge Beckwith had issued a
 13:00:48 12 ruling saying the schedule will not be changed.
 13:00:50 13 So I think it was wrong for Mr. Burke to call
 13:00:52 14 me up and say, we'd like some additional time.
 13:00:56 15 And I think it would be wrong for me to ask for
 13:00:58 16 additional time sort of behind the Court's
 13:01:00 17 back.

13:01:00 18 MR. BURKE: He could file a motion
 13:01:02 19 and we would not oppose it.

13:01:04 20 THE COURT: I'm not clear on what
 13:01:06 21 you want.

13:01:08 22 MR. BRAUTIGAM: Your Honor, we
 13:01:08 23 would like to meet before Judge Beckwith and
 13:01:10 24 explain what has happened. We don't believe we

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 13:01:14 1 should re-argue things that have already been
 13:01:14 2 decided. In fact, they have wrongly accused us
 13:01:16 3 of doing that throughout the case and that's
 13:01:18 4 not true.

13:01:20 5 What they did was, of the three
 13:01:20 6 allegations that were made previously, the
 13:01:22 7 Herron resignation, unanimity of the Board, and
 13:01:26 8 with respect to securitizations, they argued
 13:01:28 9 the same thing. They quote the same language
 13:01:30 10 and we think it's outrageous. It's not what
 13:01:32 11 the Court wanted.

13:01:34 12 THE COURT: You're still losing
 13:01:34 13 me. The defense has filed motions for summary
 13:01:36 14 judgment?

13:01:38 15 MS. ROWE: No.

13:01:40 16 MR. BURKE: No.

13:01:42 17 THE COURT: Motions to dismiss,
 13:01:42 18 and you want time to respond to the motions to
 13:01:44 19 dismiss?

13:01:46 20 MR. BRAUTIGAM: Correct.

13:01:46 21 MR. BURKE: We don't oppose that,
 13:01:48 22 Your Honor.

13:01:48 23 MR. BRAUTIGAM: We want guidance
 13:01:50 24 on how to respond to these things. If these

13:01:52 1 things -- if we're correct and these things are
 13:01:54 2 really motions for summary judgment
 13:01:56 3 masquerading as 12(B)(6) motions, let's all say
 13:02:00 4 that. Let's set an additional time, a normal
 13:02:02 5 time period to take discovery and respond.
 13:02:04 6 That's what we want, but it's not a matter of a
 13:02:06 7 week or two.

13:02:08 8 MR. HUST: Your Honor, may I be
 13:02:10 9 heard? If I understand the procedure for the
 13:02:12 10 12(B)(6), if Mr. Brautigam feels that we have
 13:02:14 11 cited materials beyond the scope of a 12(B)(6)
 13:02:16 12 motion, he certainly could point that out in a
 13:02:18 13 memorandum in opposition.

13:02:22 14 If Judge Beckwith somehow
 13:02:25 15 concluded that this was, in fact, a disguised
 13:02:28 16 motion for summary judgment, the Court would
 13:02:32 17 have to so advise the parties in advance that
 13:02:34 18 the Court was going to treat it as a summary
 13:02:38 19 motion and then go from there in terms of any
 13:02:40 20 modifications of the briefing or discovery or
 13:02:44 21 whatever.

13:02:44 22 So I mean, to the -- and the last
 13:02:46 23 point about the three remaining allegations, as
 13:02:50 24 I have pointed out in our motion to dismiss, we

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13:02:52 1 were mindful that the Court had overruled the
 13:02:54 2 12(B)(6) as to those claims or allegations back
 13:02:58 3 at the original complaint, but the new
 13:03:02 4 complaint had made additional factual
 13:03:04 5 allegations, incorporated other documents, and
 13:03:08 6 made specific references to testimony of
 13:03:10 7 various witnesses.

13:03:12 8 So we've gone out on a limb, so to
 13:03:14 9 speak, and said, we think we're entitled to
 13:03:18 10 attack those three remaining misrepresentations
 13:03:20 11 because the new complaint contains vastly more
 13:03:24 12 allegations than the original. If I'm wrong,
 13:03:28 13 I'm sure Judge Beckwith will let me know
 13:03:30 14 that -- if I've overstepped the bounds in our
 13:03:34 15 motion.

13:03:34 16 MR. BURKE: But it's certainly
 13:03:38 17 something for Judge Beckwith to rule on on the
 13:03:38 18 merits of the motion, not in advance, Your
 13:03:40 19 Honor.

13:03:40 20 MR. BRAUTIGAM: Your Honor, I
 13:03:42 21 agree with what Mr. Hust has said largely, he
 13:03:44 22 is out on a limb, he may have overstepped the
 13:03:46 23 bounds. And what we want is for Judge Beckwith
 13:03:48 24 to look at this and give us guidance. Are

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13:03:50 1 these really motions to dismiss, should we
 13:03:52 2 respond in significantly less than the normal
 13:03:54 3 amount of time for motions.

13:03:56 4 THE COURT: I think the answer to
 13:03:58 5 this is very simple. It starts with two
 13:04:00 6 premises. First, Judge Beckwith does not
 13:04:02 7 delegate dispositive motions, so whether it's a
 13:04:04 8 motion to dismiss or a motion for summary
 13:04:06 9 judgment, it's going to be decided by her
 13:04:08 10 without any reports and recommendations here.
 13:04:11 11 That's the first point.

13:04:14 12 My second point is, it will be
 13:04:16 13 obvious to her that -- I guess I've got three
 13:04:20 14 points. It will be obvious to her whether or
 13:04:24 15 not, regardless of what the defendants have
 13:04:26 16 called the motion, whether it's in effect a
 13:04:28 17 summary judgment or for dismissal.

13:04:30 18 I mean, if it raises factual
 13:04:32 19 issues that aren't established otherwise in the
 13:04:36 20 record, she's going to consider it a motion for
 13:04:38 21 summary judgment. The Rules require that if
 13:04:42 22 that's the case, she has to provide notice that
 13:04:46 23 she's treating it as a motion for summary
 13:04:48 24 judgment. And that would be the point, it

13:04:50 1 seems to me where if you wanted time, you would
 13:04:52 2 make that request right as soon as you got
 13:04:56 3 notice.

13:04:58 4 MR. BRAUTIGAM: Your Honor, that's
 13:04:58 5 what we did. We filed an emergency motion. We
 13:04:58 6 received these papers by mail on Monday. We
 13:05:00 7 filed an emergency motion on Tuesday. The
 13:05:02 8 defendants responded today. Now, their defense
 13:05:06 9 is they've called me names. They say that we
 13:05:08 10 don't have the resources, that's not correct.
 13:05:10 11 That's their entire strategy for this entire
 13:05:12 12 case, to call us names.

13:05:14 13 But I agree with everything you've
 13:05:16 14 said, so the question is, procedurally, how do
 13:05:18 15 we get to Judge Beckwith soon to figure out
 13:05:20 16 what to do? It's unfair for us to respond to
 13:05:24 17 these things that Mr. Hust has said are way out
 13:05:26 18 on a limb, where he may have overstepped. I
 13:05:30 19 mean, we have less than the usual amount of
 13:05:32 20 time to respond to one motion. Significantly
 13:05:34 21 less, I think it's a week, so it's unfair.

13:05:36 22 It's simply unfair to ask us to do
 13:05:40 23 this when they've had months to do it. They
 13:05:42 24 all got together and they have this

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ORAL HEARING

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13:05:44 1 coordinating strategy because everything is
 13:05:46 2 interlocking. The Dinsmore defendants
 13:05:48 3 incorporate parts of the OHSL defendants'
 13:05:52 4 brief. The other defendants -- the KMK
 13:05:54 5 defendants incorporate part of the other
 13:05:56 6 briefs.

13:05:56 7 They had months to do this, we
 13:05:58 8 have days to respond. And it's contemptuous of
 13:06:02 9 Judge Beckwith's ruling because they argue the
 13:06:04 10 same thing in the same way. I was shocked by
 13:06:06 11 it. I never expected this, Your Honor.

13:06:10 12 MR. HUST: Your Honor, I --

13:06:10 13 MR. BARRETT: Can I say that we
 13:06:12 14 should focus on point eight, because that's
 13:06:15 15 where everyone seems to not be --

13:06:16 16 THE COURT: That's good, you read
 13:06:18 17 that.

13:06:18 18 MR. BARRETT: We have no problem
 13:06:20 19 with a short extension. I'm sure the Judge
 13:06:22 20 would sign an agreed entry. I don't normally
 13:06:24 21 speak for her, but she probably would, I think.
 13:06:28 22 And I think the Court has already recognized
 13:06:30 23 that if, in fact, items are raised that makes
 13:06:32 24 the Court feel it's a summary judgment, she'll

13:06:34 1 give us the proper notice and go forward.

13:06:38 2 But we can respond to the reply
 13:06:40 3 for the motion to dismiss well within the four
 13:06:44 4 corners of the consolidated complaint. But I
 13:06:46 5 think we're not out on a limb, I think we're on
 13:06:50 6 pretty solid footing, quite frankly.

13:06:52 7 MR. HUST: In this case we filed
 13:06:54 8 our motion to dismiss first. I think it was
 13:06:56 9 January 21st or 22nd. And the other defendants
 13:07:00 10 filed shortly thereafter, so we're not in the
 13:07:04 11 business of incorporating other people's memos
 13:07:06 12 in the motion to dismiss. The time to respond
 13:07:08 13 to ours may be even shorter.

13:07:12 14 MR. BRAUTIGAM: Your Honor, I just
 13:07:14 15 want to point out that no one seems to have a
 13:07:16 16 problem with an extension except the District
 13:07:18 17 Judge. And if you give me a minute, I can find
 13:07:20 18 it. You were told to set a schedule, document
 13:07:24 19 221. The Judge said the schedule should not be
 13:07:28 20 changed. So we observed the letter and the
 13:07:28 21 spirit of Judge Beckwith's order. So I don't
 13:07:30 22 think --

13:07:32 23 MR. BURKE: Well, then file your
 13:07:32 24 response on the 16th.

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13:07:34 1 MR. BRAUTIGAM: May I finish,
 13:07:36 2 please? So I don't think that it's fair for
 13:07:38 3 Mr. Burke to call me up and say, hey, we have
 13:07:40 4 to change the schedule. And it's not fair for
 13:07:42 5 me to call him up and say, we need time to
 13:07:44 6 respond, with respect to Mr. Burke's other
 13:07:46 7 disingenuous use. It's simply unfair, Your
 13:07:52 8 Honor.

13:07:54 9 THE COURT: This is from my eight
 13:07:56 10 years of being here and chatting formally and
 13:07:58 11 informally with my colleagues. I really think
 13:08:00 12 that the thing that triggers their interest is
 13:08:04 13 moving back the dispositive motion cut off, all
 13:08:06 14 right? Because that usually interferes with
 13:08:10 15 the pretrial and trial.

13:08:12 16 I don't see a lot of interest in
 13:08:14 17 what we do at this level to move the schedule
 13:08:16 18 around to accommodate people, as long as it
 13:08:18 19 doesn't impact on what they're doing.

13:08:20 20 MR. BRAUTIGAM: So I mean, let's
 13:08:22 21 go back to the first question asked. How do I
 13:08:24 22 get to Judge Beckwith?

13:08:26 23 THE COURT: I would think that
 13:08:28 24 what you ought to do is approach her and ask

13:08:30 1 her for some guidance on the schedule, you
 13:08:34 2 know.

13:08:36 3 MR. BRAUTIGAM: Okay. Should we
 13:08:38 4 call, Your Honor? We thought we were doing
 13:08:40 5 that with the filing of the emergency motion.

13:08:42 6 THE COURT: Well, you know, I
 13:08:44 7 think there's a -- it's like a football term
 13:08:46 8 where you're splitting the zone, you know.
 13:08:52 9 It's not real clear sometimes what she's doing
 13:08:54 10 and what I'm doing when you get in cases like
 13:08:58 11 this. And I've tried to stay out of her way
 13:09:02 12 and I think vice versa.

13:09:04 13 So I don't mind, you can say in
 13:09:06 14 your motion, if you want to approach it, that
 13:09:08 15 in light of the Court's orders that you just
 13:09:10 16 quoted, that I'm unsure about my authority to
 13:09:12 17 change the schedule. And I -- the lawyers
 13:09:14 18 don't seem to object. If you can work out a
 13:09:16 19 reasonable accommodation, I can't see Judge
 13:09:20 20 Beckwith getting in the way. I really can't.

13:09:24 21 MR. BRAUTIGAM: Well, Your Honor,
 13:09:24 22 is it possible to have this emergency motion
 13:09:26 23 heard before Judge Beckwith, because we pretty
 13:09:30 24 much --

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13:09:30 1 THE COURT: That's up to her,
 13:09:32 2 Mike. I can't tell you what she'd do. I think
 13:09:34 3 what you have to explain to her is it's okay
 13:09:36 4 with me and it's not -- you know, it's not
 13:09:38 5 purely a scheduling issue in a complicated
 13:09:42 6 case.

13:09:42 7 It's going to impact on her order
 13:09:46 8 and if -- whenever that happens to me, I just
 13:09:48 9 go up and ask them, that it apparently
 13:09:52 10 conflicts with what you've earlier said and I
 13:09:56 11 don't want to do something that would be
 13:09:58 12 contemptuous, so how do you feel about it? I
 13:10:00 13 mean, informally. But I don't see any reason
 13:10:02 14 why you can't do that and just represent to her
 13:10:06 15 that that's how I feel about it.

13:10:08 16 MR. BRAUTIGAM: So I should call
 13:10:10 17 Judge Beckwith's chambers?

13:10:12 18 THE COURT: I would ask her.

13:10:12 19 MR. BRAUTIGAM: That's exactly
 13:10:12 20 what I'll do.

13:10:14 21 THE COURT: See if you can get a
 13:10:14 22 reasonable extension of time that nobody seems
 13:10:18 23 to oppose.

13:10:18 24 MR. BRAUTIGAM: Your Honor, it's

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13:11:04 1 Court at that juncture can say, okay, I agree
 13:11:06 2 with plaintiffs, I'll ignore those. Or the
 13:11:08 3 Court can say, all right, I'm going to treat it
 13:11:12 4 as a summary judgment, here's the notice.

13:11:14 5 THE COURT: I don't see any reason
 13:11:14 6 not to call. That's what you're saying.

13:11:16 7 MR. BURKE: Exactly.

13:11:18 8 MR. HUST: If she was going to
 13:11:18 9 agree with us that they are properly referred
 13:11:20 10 to --

13:11:20 11 MR. BURKE: For the record, Your
 13:11:22 12 Honor, we think the cases that have been cited
 13:11:24 13 in our brief are pretty clear. If Mr.
 13:11:24 14 Brautigam is going to start alleging facts and
 13:11:28 15 half quotes from a deposition or from a proxy
 13:11:30 16 statement or from a document outside the
 13:11:32 17 record, if he references it, refers to it and
 13:11:34 18 relies on it in his complaint, we have the
 13:11:36 19 right to bring to the Court's attention that
 13:11:38 20 entire document so that it be placed in
 13:11:38 21 context.

13:11:40 22 We think the law is pretty clear
 13:11:40 23 on that. So just for the record, we'd disagree
 13:11:44 24 with Mr. Brautigam's position. But whether

13:10:18 1 not only a reasonable extension of time, but
 13:10:20 2 it's an extension of time to do what. If I'm
 13:10:24 3 correct and these are summary judgment
 13:10:28 4 motions --

13:10:26 5 THE COURT: Well, I don't think
 13:10:28 6 you can say that now because she's got to react
 13:10:28 7 to that. She's got to look at that motion and
 13:10:32 8 say I consider this a motion for summary
 13:10:32 9 judgment and put a notice out to the parties
 13:10:34 10 that it's going to be considered that way.

13:10:36 11 MR. BRAUTIGAM: Right. But
 13:10:36 12 somehow she has to be alerted to look at it
 13:10:40 13 before the 16th.

13:10:40 14 MR. BURKE: Well, put it your
 13:10:42 15 response and say that. File your response and
 13:10:44 16 say that and then she will be put on notice and
 13:10:48 17 then she can react. I don't understand what's
 13:10:50 18 so hard.

13:10:50 19 MR. BRAUTIGAM: Well, Jim --

13:10:52 20 MR. HUST: My experience is the
 13:10:54 21 Court would sua sponte react if it's a 12(B)(6)
 13:10:58 22 motion. And if the plaintiffs suggest that
 13:10:58 23 there are matters outside the pleadings or that
 13:11:02 24 otherwise are improperly incorporated, the

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13:11:48 1 that's correct or incorrect, I agree with Mr.
 13:11:48 2 Hust if he says that the Judge can react.

13:11:50 3 MR. BRAUTIGAM: Your Honor,
 13:11:50 4 essentially what Mr. Burke is saying is it's a
 13:11:54 5 motion for summary judgment, and with that I
 13:11:56 6 agree.

13:11:58 7 MR. BARRETT: No, time out.

13:11:58 8 MR. BRAUTIGAM: Please don't
 13:11:58 9 interrupt me.

13:12:00 10 MR. BARRETT: It's unbelievable
 13:12:02 11 the way you handle yourself.

13:12:04 12 MR. BRAUTIGAM: I didn't interrupt
 13:12:04 13 you.

13:12:04 14 MR. BARRETT: Yes, I know you
 13:12:06 15 didn't.

13:12:06 16 THE COURT: Let's get back to the
 13:12:08 17 point. How do you get to Judge Beckwith and
 13:12:10 18 explain to her your quandary. You simply
 13:12:12 19 approach her chambers and say, I need to know
 13:12:14 20 for my own ability to represent my clients, do
 13:12:16 21 you consider these motions to dismiss summary
 13:12:20 22 judgments or not.

13:12:20 23 MR. BRAUTIGAM: Okay.

13:12:20 24 THE COURT: And if so, will you

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13:12:22 1 give me more time to do it. The Magistrate
 13:12:24 2 Judge says it's okay with him. We're not on
 13:12:28 3 each other's turf, if she considers it that
 13:12:30 4 way.

13:12:30 5 MR. BRAUTIGAM: Your Honor, may
 13:12:32 6 plaintiffs have permission to write a letter to
 13:12:34 7 Judge Beckwith and copy you?

13:12:38 8 MR. BURKE: I assume that includes
 13:12:38 9 counsel, too.

13:12:38 10 THE COURT: I don't care.

13:12:40 11 MR. BRAUTIGAM: Of course, I can
 13:12:42 12 have permission?

13:12:42 13 THE COURT: Yes.

13:12:44 14 MR. BRAUTIGAM: Thank you, Your
 13:12:44 15 Honor. So I will send a letter to Judge
 13:12:46 16 Beckwith and all counsel, of course, and just
 13:12:50 17 ask for some resolution thereof.

13:12:52 18 THE COURT: And if I get marching
 13:12:54 19 orders to re-create the calendar order, fine.

13:12:56 20 It's not a big deal.

13:12:58 21 MR. BRAUTIGAM: I just want it
 13:12:58 22 clear on the record that I have permission to
 13:13:00 23 write Judge Beckwith.

13:13:04 24 MR. HUST: You have my permission

13:13:04 1 to represent that I have no objection to an
 13:13:08 2 extension.

13:13:10 3 MR. BARRETT: Reasonable
 13:13:10 4 extension.

13:13:10 5 MS. ROWE: Just so we're clear,
 13:13:12 6 Your Honor, is it correct to say that the
 13:13:12 7 scheduling order as it's written stays in place
 13:13:16 8 until Judge Beckwith makes some sort of
 13:13:20 9 extension?

13:13:20 10 THE COURT: Yes. Okay?

13:13:24 11 MR. BRAUTIGAM: Thanks, Your
 13:13:24 12 Honor.

13:13:26 13 MS. PERRY: Thank you, Your Honor.
 13:13:28 14 THE COURT: Okay, thanks.

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17 (Hearing concluded at 1:13 p.m.)

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1 C E R T I F I C A T E

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3 I, Lee Ann Williams, a Notary Public in
 4 and for the State of Ohio, do hereby certify
 5 that the foregoing is a true and correct
 6 transcript of the proceedings in the foregoing
 7 captioned matter, taken by me at the time and
 8 place so stated and transcribed from my
 9 stenographic notes.

10

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12 My commission expires: _____
 August 28, 2004 Lee Ann Williams, RPR
 Notary Public-State of Ohio

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